

Notice of Allowability

Application No.

10/811,534

Examiner

Gordon J. Stock

Applicant(s)

SCHMILOVITCH ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 1/9/07.
2. ☒ The allowed claim(s) is/are 1-26.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other PTOL-413B.

DETAILED ACTION

1. The Amendment received on January 9, 2007 has been entered into the record.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Larry Nixon on February 1, 2007. Specifically, **claims 11, 19, 21, and 26** will be amended. See attached PTOL-413B.

The amended claims:

11. (Currently Amended) A sampling chamber according to claim 1, and wherein the optical measurements are utilized to determine a relative concentration of at least one component ~~of the components~~ of the fluid.

19. (Currently Amended) A system according to claim 12 and wherein said computing system is operative to determine the concentration of the at least one component by relating the intensity of said optical beam transmitted through the fluid sample and of said optical beam scattered by the fluid sample to an expression for the concentration in terms of the intensities.

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21. (Currently Amended) A system according to claim 19 and wherein the transmitted and scattered intensities are related to the concentration of said at least one component by means of empirical coefficients, and wherein said empirical coefficients are determined by a statistical analysis of transmitted and scattered intensities obtained from a plurality of samples of the fluid having known concentrations of said at least one component ~~components~~.

26. (Currently Amended) The system of claim 25, wherein said system determines the constitution of milk on-line during a a ~~[[the]]~~ milking process.

Allowable Subject Matter

3. **Claims 1-26** are allowed.

The following is an examiner's statement of reasons for allowance:

As to **claims 1 and 12**, the prior art of record, taken alone or in combination, fails to disclose or render obvious a sampling chamber for performing optical measurements and a system for determining a concentration of at least one component of a fluid the particular recessed cavity having an arc-shaped smooth profile in fluid contact along a side wall of said conduit, in combination with the rest of the limitations of **claims 1-26**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

4. Applicant's arguments, see Remarks (pages 8-9), filed January 9, 2007, with respect to the previous rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) (see action 20061016) have been fully considered and are persuasive. Due to the persuasive arguments and due to the amendment to the claims the previous rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) have been withdrawn.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- U.S. Patent 3,869,214 to Egli et al. (specifically, see Fig. 3)
- U.S. Patent 3,946,239 to Salzman et al. (specifically, see Fig. 1)
- U.S. Patent 4,200,802 to Salzman et al. (specifically, see Fig. 1)
- U.S. Patent 4,818,493 to Coville et al. (specifically, see Figs. 15, 16, and 19)
- U.S. Patent 7,092,084 to Payne (specifically, see Fig. 1)

Fax/Telephone Numbers

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

- 1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the fax cover sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The

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form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: (571) 273-8300

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (571) 272-2431.


The examiner can normally be reached on Monday-Friday, 10:00 a.m. - 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached at 571-272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gs

February 1, 2007

 FOA
Gregory J. Toatley, Jr.
Supervisory Patent Examiner
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